IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MS JUSTICE G.ROHINI**

**WRIT PETITION NO : 18369 of 2004**

Between:

Pattapalli Sreenivasulu, s/o Subbaramaiah,
r/o Kodurupadu Village, Nellore Rural Mandal,
Nellore District.

**..... PETITIONER**

AND

1 The Government of A.P., rep., by its Principal Secretary, Revenue (Endowments) Department, Secretariat,
Hyderabad.
2 The Assistant Commissioner of Endowments, Nellore, Nellore District.
3 Kunkalammavari Devasthanam, Leburu Village,
Indukur Mandal, Nellore District, rep., by its Manager- cum-Executive Officer

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in conducting the lease hold rights by way of public auction scheduled to be conducted on 11-10-2004, in respect of the schedule land to an extent of Ac.10.16 cents in Sy.Nos.1101 and 1102 of Leguru Village, Indukurpet Mandal, Nellore District belonging to the 3rd respondent, which is under the cultivation of the petitioner without giving notice under Form-I of Rule 5(1) of the A.P.Charitable and Hindu Religious Institutions and Endowments Act 30/87, is as illegal, arbitrary, violation of Article 14 of the Constitution of India and consequently direct the respondents to declare the petitioner as a landless poor person under proviso of Section 82 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act and continue the petitioner as cultivating tenant of the said land.

**Counsel for the Petitioner :MR. S.LAKSHMINARAYANA REDDY**

**Counsel for the Respondents 1 & 2: GP FOR ENDOWMENTS**

**Counsel for the 3rd respondent : Smt. N.Indrani**

**The Court made the following :**

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION NO.18369 OF 2004**

**ORAL ORDER :**

The petitioner claims to be the cultivating tenant in respect of Ac.10.16 cents of wet land situated in Sy.Nos.1101 and 1102 of Leburu Village, Indukurpet Mandal, Nellore District belonging to the third respondent temple.

This writ petition is filed seeking a declaration that the action of the third respondent temple in proposing to conduct public auction on 11-10-2004 in respect of the leasehold rights of the lands in occupation of the petitioner is arbitrary and illegal.

The only contention raised by the petitioner is that the third respondent temple has not issued any notice terminating the lease in favour of the petitioner as required under the Rules issued in G.O.Ms.No.379, dated 11-03-2003. The learned Counsel for the petitioner vehemently contends that without terminating the tenancy and without recovering possession from the petitioner, the third respondent is not justified in conducting the public auction.

As can be seen from the affidavit filed in support of the writ petition, the petitioner is in occupation of Ac.10.16 cents of wet land. If that be so, he cannot be said to be a landless poor person as defined under Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987. That apart, under Rule 3 of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short, 'the Rules') issued in G.O.Ms.No.379, Revenue (Endowments-I) Department, dated 11-03-2003, any person who claims to be the landless poor person has to make such claim before the Assistant Commissioner of Endowments, in which event the Assistant Commissioner of Endowments has to make necessary enquiry and pass appropriate orders. If the cultivating tenant does not claim to be landless poor person or if the Assistant Commissioner concerned determines the cultivating tenant is not a land less poor, the tenancy would be deemed to be cancelled with effect from 28-05-1997.

It is not in dispute that the petitioner never raised any claim before the Assistant Commissioner of Endowments that he is a landless poor person. As such, the tenancy is deemed to be cancelled with effect from 28-05-1997 as specified under Rule 3 of the Statutory Rules. In the circumstances, even assuming that there was no notice of termination of tenancy, the petitioner cannot claim any right to continue in possession and it is open to the third respondent to put the leasehold rights to auction. Hence, the writ petition is devoid of any merit and the relief as prayed for cannot be granted.

However, the learned Counsel for the petitioner states that there is a standing crop on the land in question and if at this stage the petitioner is dispossessed, he would suffer irreparable injury.

In the circumstances, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to make a request before the third respondent within one week from today to allow him to continue in possession till the crop is harvested. In the event of making such application, the third respondent

may consider the request of the petitioner subject to payment of arrears of rents if any and on furnishing an undertaking by the petitioner that he would deliver peaceful possession within the time mutually agreed and pass appropriate orders. Till such orders are passed, Status Quo obtaining as on today as to the nature and possession of the land in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

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07th October, 2004.

Gbs

To

1 The Principal Secretary, Government of A.P., Revenue (Endowments) Department, Secretariat, Hyderabad.
2 The Assistant Commissioner of Endowments, Nellore, Nellore District.
**3.2CCs to G.P. for Endowments, High Court of AP Bldgs, Hyderabad (OUT).**

4.2CD copies

**THE HON'BLE MS. JUSTICE G.ROHINI**

**WRIT PETITION NO.18369 OF 2004**

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**ADVANCE ORDER :** (Operative portion by wire)

The writ petition is disposed of granting leave and liberty to the petitioner to make a request before the third respondent within one week from today to allow him to continue in possession till the crop is harvested. In the event of making such application, the third respondent may consider the request of the petitioner subject to payment of arrears of rents if any and on furnishing an undertaking by the petitioner that he would deliver peaceful possession within the time mutually agreed and pass appropriate orders. Till such orders are passed, Status Quo obtaining as on today as to the nature and possession of the land in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

(Order follows … … …)

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07th October, 2004.

Note :-

1. Issue wire at party's costs.
2. After dispatching the wire, this

Bundle will be sent to the Court

Masters' Section immediately.

(B/O)

gbs